

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI**

**IN RE: RALPH JOHN BESHEARS and
TAMMY BESHEARS**

CAUSE NO. 20-11137-JDW

**MOTION TO LIFT AUTOMATIC STAY
AND FOR ADEQUATE PROTECTION**

COMES NOW, State Bank & Trust Company, by and through its attorneys, and requests this Court to lift the automatic stay and to provide adequate protection regarding certain real property owned by Debtors and in which Movant has a valid security interest and states as follows:

1. State Bank & Trust Company entered into a loan agreement (partial loan number 4971) with Ralph John Beshears and Tammy Beshears on or about June 22, 2012, in the amount of \$91,748.00.

2. Ralph John Beshears and Tammy Beshears secured the above loan with a Promissory Note and Deeds of Trust (attached hereto as collective Exhibit "A") on two (2) parcels of real property in Yalobusha County, Mississippi. The first parcel pertains to real property and the residence located at the address commonly known as 161 County Road 552, Coffeeville, Mississippi, 38922, and having the following legal description:

A part of the Southwest Quarter of the Northwest Quarter of Section 36, Township 25 North, Range 6 East of the First Judicial District of Yalobusha County, Mississippi, containing 1.01 acres, more or less, and being more particularly described as follows: Begin at a point located 3334 feet North and 203.2 feet East from the Southwest Corner of Section 36, Township 25 North, Range 6 East and run North 7 degrees 40 minutes 00 seconds East 210.00 feet, thence South 82 degrees, 20 minutes, 00 seconds East 210.00 feet, more or less, to the West right of way of County Road 552; thence South 7 degrees, 40 minutes, 00 seconds West 210.00 feet along the road; thence North 82 degrees, 20 minutes, 00 seconds West 210.00 feet to the Point of Beginning.

The second parcel pertains to 60.2 acres, more or less, located in the SW 1/4 of the SW 1/4, the NW 1/4 of the SW 1/4, the SE 1/4 of the SW 1/4, and the SW 1/4 of the NW 1/4 of Section 12, Township

24 North, Range 7 East, First Judicial District of Yalobusha County, Mississippi, and having the following legal description:

Begin at the Southwest Corner of Section 12, Township 24 North, Range 7 East and run N 0° 17' 20" W 2638.03 feet, along the West line of Section 12, to the center of the Airmount Road; thence along the center of the road; N 87° 37' 36" E 235.58 feet; thence N 83° 12' 15" E 101.43 feet; thence N 68° 08' 51" E 82.89 feet; thence N 59° 58' 58" E 209.23 feet; thence leaving the road S 15° 00' 33" E 2895.29 feet to the South line of Section 12; thence N 89° 56' 49" W 1330.70 feet to the Point of Beginning, containing 60.2 acres, more or less, located in the Southwest Quarter of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 12, Township 24 North, Range 7 East of the First Judicial District of Yalobusha County, Mississippi.

3. State Bank & Trust Company is a secured creditor with a first lien upon the above real property.

4. State Bank & Trust Company has not received payment on the above Promissory Note since July 2019. The principal balance of the loan, as of the date of filing of the current bankruptcy petition on March 12, 2020, was \$84,513.04. This note is now past due. The principal balance as of today's date is \$86,425.30, and the total payoff as of today's date is \$90,072.77. The total payoff includes outstanding interest in the amount of \$3,123.87, legal fees from two (2) attempted foreclosures on the subject property in the amount of \$4,242.37, and appraisal fees in the amount of \$700.00.

5. On or about January 10, 2020, State Bank & Trust Company attempted to foreclose on the above property under its loan and made a second foreclosure attempt on or about March 13, 2020. However, both foreclosure attempts were unsuccessful due to declarations of bankruptcy by Debtors herein.

6. In an effort to circumvent the initial foreclosure, Debtors filed a Chapter 13 bankruptcy petition in this Court on January 10, 2020 under its Cause No. 20-10109-JDW.

However, said bankruptcy was dismissed for failure to timely file documents and/or pay required fees [see Doc. 6 on said docket]. The *Final Decree/Order Closing Case* [see Doc. 9 on said docket] was entered in said cause on March 10, 2020.

7. The current Chapter 13 bankruptcy petition was filed by Debtors on March 12, 2020, just two (2) days after the formal dismissal of the prior bankruptcy, in order to again prevent foreclosure by State Bank & Trust Company on the subject property.

WHEREFORE PREMISES CONSIDERED, State Bank & Trust Company asks that the automatic stay be lifted immediately as to the property or the Debtors be required to provide adequate protection as to the property described herein and that should the matter be dismissed, Debtors shall be barred from filing another bankruptcy petition in this or any other Bankruptcy Court for a period of 180 days from the entry of any such dismissal.

This the 30th day of March, 2020.

Respectfully submitted,

JACKS GRIFFITH LUCIANO, P.A.
Attorneys for State Bank & Trust Company

By: /s/ Mary McKay Griffith
Mary McKay Griffith, MSB #100785
Post Office Box 1209
Cleveland, MS 38732

CERTIFICATE OF SERVICE

I, Mary McKay Griffith, Attorney for State Bank & Trust Company, do hereby certify that I have this date notified by ECF and/or mailed, postage prepaid, a true and correct copy of the above and foregoing *Motion to Lift Automatic Stay and for Adequate Protection* to the following:

Robert Gambrell, Esquire
Gambrell & Associates, PLLC
101 Ricky D. Britt Blvd., Suite 3
Oxford, MS 38655
Attorney for Debtors

U. S. Trustee
United States Trustee
501 East Court Street
Suit 6-430
Jackson, MS 39201

Locke D. Barkley, Trustee
6360 I-55 North, Suite 140
Jackson, MS 39211

This, the 30th day of March, 2020.

/s/ Mary McKay Griffith
MARY McKAY GRIFFITH